

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 202004896	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/30/2020 8:00 AM	Location of Incident: In front of 31 Chambers Street	Precinct: 05	18 Mo. SOL 12/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/30/2020 8:57 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/08/2020 11:18 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to individuals.	
B. Officers	Force: Officers used physical force against individuals.	

Case Summary

On June 30, 2020, § 87(2)(b) a reporting non-witness, called 911 and was transferred to the IAB Command Center where she filed the following complaint under IAB Source #20-16158. On July 8, 2020, the CCRB received this complaint from IAB under Log #20-16357 (BR01).

On June 30, 2020, at approximately 8:57 a.m., § 87(2)(b) complained that she had been at past Occupy City Hall protests, where she observed a white male sergeant being disrespectful and rude (**Allegation A: Discourtesy-demeanor/tone**, § 87(2)(g)). She also alleged that police brutality was currently taking place at the Occupy City Hall protest in the vicinity of City Hall in Manhattan (**Allegation B: Force-physical force**, § 87(2)(g)). § 87(2)(b) said there was video evidence and later emailed web links for two videos that had been uploaded to Instagram.com (BR02 & BR03).

The investigation obtained copies of the two videos (BR02 & BR03) § 87(2)(b) emailed to IAB that captured brief portions of this incident.

The investigation's request for Body-Worn Camera ("BWC") footage with regards to this incident (BR04).

Findings and Recommendations

Allegation A—Discourtesy: An officer spoke discourteously to individuals.

Allegation B—Force: Officers used force against individuals.

Known Facts and General Descriptions

On June 30, 2020, at 8:57 a.m., § 87(2)(b) was transferred to the IAB Command Center, wherein she stated that she is part of the Black Lives Matter protest, that there is an account on the website Instagram.com, that records police brutality, and that police brutality was currently taking place at the City Hall protest (BR05). When asked for more details, § 87(2)(b) began broadly speaking about her experience of the Occupy City Hall protests, which she had participated in for three days, and witnessed numerous young officers "fighting the fight," for the older officers standing behind them, and broadly remarked that "they're hurting people." § 87(2)(b) did not cite which dates she participated in the Occupy City Hall protests, nor describe any officers' actions therein. § 87(2)(b) stated that she has two videos from Instagram.com, and that the videos were recorded today, and they were happening right now. She described one of the videos as showing an officer "waving his baton around like it's a fucking toy."

§ 87(2)(b) also complained about an Italian sergeant in a white shirt who was disrespectful and rude, but could not provide any specific details. Given that § 87(2)(b) raised the above allegations against the sergeant while describing her own experience participating in the Occupy City Hall protests, and did not later describe his alleged conduct or indicate it was captured on the videos that formed the basis of her complaint, it is likely that § 87(2)(b)'s allegations against the sergeant occurred during the three unknown dates § 87(2)(b) said she was present for rather than the identified incident date above.

The two videos § 87(2)(b) viewed and forwarded to IAB, had been posted on the website, instagram.com, by the user, "§ 87(2)(b)" at unknown times on June 30, 2020. Review of the account user's home page § 87(2)(b) showed that § 87(2)(b) is not listed as a user or account holder, nor listed any other identifiable individual's or entities name or contact information as being connected to the account, except for an associated account—"§ 87(2)(b)"—via the website, twitter.com.

The first video § 87(2)(b) (BR02) begins with an unidentified individual recording westbound on Chambers Street, and shows a large number of individuals protesting and chanting in a long row on the left side of the frame, and an equally large number of uniformed officers with helmets and batons in a long row on the right side of frame. The individuals are grouped on the southside of Chambers Street adjacent to City Hall Park, while the

officers are lined up in front of the government building, which a Google Maps search confirmed is the New York Surrogate Court, at 31 Chambers Street in Manhattan. While the group of individuals is heard repeatedly chanting, “you about to lose your job,” an automated NYPD recording announces, “You are unlawfully in the roadway and obstructing vehicular traffic. You are ordered to leave the roadway and utilize the available sidewalk. If you do so voluntarily, no charges will—” and the video abruptly ends. Due to the distance that the individual recorded the video from, none of the officers, their name plates, shield numbers, or their corresponding commands were captured clearly enough by the recording device to be positively identified.

The second video § 87(2)(b) (BR03) begins from a different perspective than the first video, which a Google Map search identified as the southeast corner of the intersection of Chambers Street and Centre Street in Manhattan. The video begins with the unidentified individual filming northbound on Centre Street, wherein an unidentified white male officer, wearing a navy blue uniform with three chevrons, is seen on the right side of frame. Seen behind and to the left of the first officer, a white male officer in a uniform with a white shirt, and numerous additional unidentified civilians and uniformed officers are partially seen. The white officer with chevrons on his uniform is heard ordering the civilians to get back, and seen making pushing motions with both hands on his baton, and then guides a civilian back toward the sidewalk by pushing them slightly from behind with his baton, while other officers attempt to keep the other civilians from entering onto Centre Street. The group of uniformed officers form a line in front of civilians to stop the civilians from moving forward, and at the 30-second mark, the video abruptly ends.

During the 30-seconds of video (BR03), more than 10 unidentified uniformed officers are seen. While a white male officer in the white shirt is briefly captured at the beginning of the video, he is no longer visible after the first few seconds of the video, and no identifiable words or discernable actions of the white male officer in the white shirt are captured by the recording device. Due to the brief length of each video, recording distance from officers, and chaotic jerking movements throughout, none of the officers seen in the footage could be identified via nameplate, shield number, or command lapel pin.

The investigation utilized Input-Ace on the second video (BR03) in an attempt to identify any officer captured in the footage via their name plate, shield number, or command lapel pin. The footage of the second video was stabilized to achieve better clarity (BR06), level-adjusted snapshots of the officers’ lapel pins were taken (BR07), and frame-average snapshots were produced in order to reduce pixelization (BR08). However, none of the steps taken via Input-Ace software were able to effectively reduce the over pixelization and blurred images present in the second video, which ultimately prevented the investigation from identifying any of the officers captured within the video.

On July 31, 2020, the investigation established contact with § 87(2)(b) (BR09), who informed the undersigned that she was not present for the incident, and thus was unable to provide a statement in regards. § 87(2)(b) also did not re-raise the allegations made in her initial IAB call, and stated that she filed this complaint based solely upon the two videos which she watched the morning of June 30, 2020, via Instagram.com, and emailed to IAB. § 87(2)(b) denied that she was the owner of the “§ 87(2)(b)” Instagram account, did not know the identity of the account user, did not know if the account user in fact recorded the videos and witnessed the incident or merely posted the recorded as their own, nor knew if the incident in fact occurred on June 30, 2020.

§ 87(2)(b) had spoken with a few individuals who were present for this incident, and agreed to pass along the undersigned’s name and contact information, as well as the message that the CCRB wished to speak to civilians involved, and obtain their statement in regards. § 87(2)(b) later told the CCRB that the individuals did not feel comfortable having their personal information shared with the CCRB. (BR10).

On August 12, 2020, CCRB Social Media Liaison Blake Fellow Flucus, sent direct messages to “§ 87(2)(b)” Instagram and Twitter accounts, however, as of the date of this

report neither account has responded to Blake Fellow Flucus' messages, nor independently contacted the CCRB in regards. As such, the investigation was unable identify the individual, or individuals, who recorded the videos, the exact date, time, and location each video was recorded, the amount of time, if any, that passed between the videos.

Body-Worn Camera ("BWC")

The CCRB's request for BWC footage responsive to this incident was returned with negative results (BR04). According to the BWC request receipt, the NYPD conducted a search for any relevant footage from the date and time of the incident for officers assigned to the 1st and 5th Precincts, as well as officers assigned to Patrol Borough Manhattan South, Emergency Services Unit, Strategic Response Group, Critical Response Command, Narcotics Borough Manhattan South, all of which produced negative results.

NYPD Documents Reviewed

While the investigation obtained and reviewed the EVENT summaries and Resource Recap Logs from the 1st and 5th Precincts during the date and time of incident as provided by § 87(2)(b) none of the listed EVENTS or corresponding Resource Recap jobs, matched or appear related to incident as alleged. Additionally, a search of the NYPD Booking Arraignment and Disposition System (B.A.D.S) revealed that there were no arrests made in either the 1st or 5th Precincts on June 30, 2020, at approximately 9:00 a.m. Additionally, while the investigation obtained the ARCS from both the 1st and 5th Precinct from the date and time of incident, due to the limited description of the subject officer—the potential pool of subject officers could not be narrowed. Additionally, the investigation's request for zone, sector, and post maps, pre- and post-event memos, corresponding detail rosters, and all other protest documentation from the 5th Precinct on the date and time of the incident was returned with negative results.

Concurrent Investigations

IAB Log #20-16357, (BR01) notes that after receiving § 87(2)(b)'s complaint, the case was referred to IAB Group 7 on June 30, 2020, in order to identify any officers captured within the videos. However, the IAB Log notes that less than two hours later that same day, Sergeant Manuel Chang of IAB of Group 7, notified the Command Center that they were unable to positively identify any officer from the videos.

On October 28, 2020, the CCRB obtained and reviewed the case files for the investigation conducted by Sergeant Carlos Escobar of the Counter Terrorism Bureau (BR11). On August 26, 2020, Sgt. Escobar's entered his final disposition for this case:

"The only evidence and video footage provided by the c/v shows the uniformed members of the scene attempting to control a hostile crowd of protesters. The c/v did not call the investigating officer back in order to obtain more details. The video footage is inconclusive at this time and cannot prove how the unknown subject was rude. Therefore the u/k umos is being exonerated at this time."

Ranking Officers

As discussed above, while § 87(2)(b) called IAB to report this complaint on June 30, 2020, at 8:57 a.m., the videos (BR02 & BR03), which her complaint is based upon, do not contain any time stamps, or any identifiable officer information. Without the ability to definitively identify the date and time of occurrence, or any officer as captured within the videos, the investigation could not identify the highest-ranking officer involved in this incident.

Officers Interviewed

As discussed above, since the investigation could not identify the date and time of incident, nor identify any officer captured within the provided videos, no officers were interviewed.

Allegation Recitation and Disposition

When § 87(2)(b) filed this complaint on June 30, 2020, at 8:57 a.m., she alleged that police brutality was currently taking place at City Hall. § 87(2)(b) further alleged that on an unknown date, a white male sergeant was disrespectful and rude, and that she had a video which showed an officer waving his baton around like a toy. § 87(2)(b)'s allegations were based upon two videos she saw on Instagram. The second video (BR03), posted on June 30, 2020, at an unknown time, shows officers using batons to push protesters back, but does not contain a specific date and time of incident. Despite utilizing Input-Ace to analyze the videos' content, as well as review the videos' metadata and source codes, the investigation was unable to find any additional identifying information contained within the videos. The Instagram user that posted the videos, § 87(2)(b) did not respond to the CCRB's attempt to establish contact.

Because § 87(2)(b) did not witness the incident, and was unable to provide any further details, namely, a specific date and time of incident, or detailed description of any officer, the investigation could not identify and question the officers involved to determine whether their use of batons was justified under the circumstances. Additionally, since § 87(2)(b) did not provide any additional information about the white sergeant in the white shirt, including the date, time, and approximate location where he was disrespectful and rude, the investigation was unable to identify the white male sergeant. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB case in which § 87(2)(b) has been a party.
- The officers involved in this complaint were unable to be identified.

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- On November 10, 2020, a FOIL request was sent to the NYC Comptroller's office to determine whether § 87(2)(b) filed a Notice of claim in regards to this incident, the results of which will be added to the case file upon receipt (BR12).

• § 87(2)(b)

Squad No.: 7

Investigator:	<u>Griffin Sherbert</u>	<u>Griffin Sherbert</u>	<u>11/13/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Manager Vanessa Rosen</u>	<u>November 17, 2020</u>
	Signature	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date